

MINUTES OF THE CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

January 19, 1999

The Capital Projects and Bond Oversight Committee met on Tuesday, January 19, 1999, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Robert Damron, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Robert Damron, Chairman; Senator Bob Leeper, Vice Chairman; Senators Tom Buford and Bob Jackson; and Representatives Jodie Haydon, Paul Marcotte, and Jim Wayne.

Guests: Bill Hintze, Governor's Office for Policy and Management; Commissioner Armond Russ, Danny Shearer, and Jim Abbott, Department for Facilities Management; Tom Howard and Kim Link, Office of Financial Management and Economic Analysis; Marilyn Eaton-Thomas, Kentucky Infrastructure Authority; David Bratcher, Cabinet for Economic Development; Dr. Robert Tarvin, School Facilities Construction Commission; Sherron Jackson, Council on Postsecondary Education; Mary Allen and Ken Clevidence, University of Kentucky; Sally Hamilton, Kentucky Educational Television; Mike Fulkerson, Justice Cabinet; Pat Patterson, Kentucky Labor Cabinet; Bob Benson, Regional Airport Authority of Louisville/Jefferson County; Bob Carter, Military Affairs; Rex Hunt and Karen Powell, Finance and Administration Cabinet; Kim Burch and Karen Hilborn Crabtree, LRC.

LRC Staff: Mary Lynn Collins, Pat Ingram, Jack Affeldt, Lou Pierce, and Shawn Bowen.

Press: Tony McVeigh, *Kentucky Network*; and Tom Loftus, *Courier Journal*.

Representative Wayne made a motion to approve the minutes of the December 15, 1998 meeting as submitted. The motion was seconded by Representative Marcotte and passed by voice vote.

Chairman Damron welcomed two new Committee members -Representative Jodie Haydon and Senator Bob Jackson.

Chairman Damron reviewed correspondence items in members' folders including the Kentucky Lottery Corporation's monthly financial status report and correspondence

from Attorney General Albert Chandler concerning the investigation of the Kenton County Courthouse project. He said the AG's office has ended its investigation of this project and will make a presentation to the Committee at a later date. Also included in members' folders were project status reports by the Administrative Office of the Courts, the Finance and Administration Cabinet, Murray State University, the University of Kentucky, and the University of Louisville.

Mr. Peter Hasselbacher, University of Louisville (U of L) Faculty Representative, reported on the purchase of an unbudgeted piece of equipment for the University. He said the University has purchased a mass spectrometer, which will be used to measure the molecular weight of lipid peroxides. The cost of the spectrometer is \$149,592.

Chairman Damron said no further action is required for unbudgeted purchases of research equipment.

Chairman Damron then called on Mr. Bill Hintze, Deputy State Budget Director, Governor's Office for Policy and Management (GOPM), and Commissioner Armond Russ, Department for Facilities Management, to report on two projects submitted by the Finance and Administration Cabinet.

Mr. Hintze began by discussing a scope increase for a transmitter replacement project for Kentucky Educational Television (KET). He said this line-item project was approved by the 1998 General Assembly for \$6,000,000 as part of the Surplus Expenditure Plan. Mr. Hintze said they recognize this funding as a first phase of a project to eventually replace 13 transmitters. The funding the 1998 General Assembly provided will permit replacement of six transmitters located in Ashland, Bowling Green, Hazard, Pikeville, Owensboro, and Covington. Mr. Hintze said KET has received a \$373,600 grant from the National Telecommunications and Information Administration (NTIA), and the proceeds will allow KET to replace one additional transmitter in Murray, Kentucky. Mr. Hintze said the NTIA grant requires a 50% match, and a portion of the \$6,000,000 appropriated for the project will be used as matching funds.

Chairman Damron asked if more federal moneys will be available next year, and if so, will KET have money remaining in the project budget to meet the required 50% match. Ms. Sally Hamilton, KET, said the agency has applied to the NTIA for additional funds to replace two more transmitters, and it will be late summer before they get a response. She said KET will use the \$6 million appropriation to leverage as much federal assistance as they can.

Senator Jackson made a motion to approve the scope increase for the KET transmitter replacement project. The motion was seconded by Representative Wayne and passed by voice vote. The revised project scope is \$6,373,600.

Mr. Hintze then discussed an unbudgeted federally funded project for the Department of Military Affairs. The Department is planning to convert a cold storage warehouse to office and workspace at Boone National Guard Center in Frankfort. The building will house a video teleconferencing center, a television/video projection and studio, media storage, network control center, office space for 25 staff, computer maintenance and setup workshop, print shop, mail distribution, customer service center, equipment staging, and showers and lockers. Mr. Hintze said funding sources included a \$490,000 federal grant and \$150,000 in restricted agency funds.

Mr. Hintze added that this project will replace a more expensive project originally proposed as part of the Department's Six-Year Capital Plan. He said by utilizing federal dollars, the project will be delivered at a lessor cost and in a more timely manner.

In response to a question from Chairman Damron, Mr. Hintze said the Department no longer needs the cold storage warehouse, and the building to be converted is structurally sound.

Senator Buford made a motion to approve the unbudgeted project for the Department of Military Affairs. The motion was seconded by Senator Jackson and approved by voice vote.

Chairman Damron asked Commissioner Russ about the status of siting of the new Transportation building in Frankfort. Commissioner Russ said the Finance and Administration Cabinet is continuing to study the cost and the feasibility of downtown development not only for the Transportation Cabinet building, but also for the new Kentucky Higher Education Assistance Authority building, both of which were authorized by the 1998 General Assembly. He said the Cabinet studied a number of scenarios, and in December 1998, they presented their findings to the Governor. In addition to the downtown site on Holmes Street, a site just off the East-West Connector, near the State Laboratory Building, is also being considered. Governor Patton asked the Cabinet to collect more detailed cost information which they hope to have compiled within the next three months.

Chairman Damron said according to a news article he had read, the cost of locating the Transportation Cabinet building downtown could be significantly more expensive than building at the East-West Connector location. He asked Commissioner Russ about the costs associated with property acquisition at both locations. Commissioner Russ said the city of Frankfort, under contract with the state, is obtaining formal appraisals for property at the downtown location. He indicated relocation costs must also be factored in since the Transportation Cabinet pays relocation expenses when it takes property to widen the road or for other projects.

Chairman Damron asked about the remediation costs associated with the proposed downtown site which includes a scrapyard. Commissioner Russ said that those costs are very difficult to determine. He noted that even some of the property on the proposed site that is now used for residential purposes was once, many years ago, used by a tannery and other commercial/industrial interests. He said that his office would not be able to get accurate estimates of the cost of remediation work until the state acquired the property or the rights from the property owners to do testing on the property. He said that process could take as long as six months. In response to a comment from Chairman Damron, Commissioner Russ said the steps required to get good cost estimates are prudent and will be obtained before a decision is made on the siting of the building.

Chairman Damron asked Commissioner Russ about legal issues relating to design/construction errors on the Murray State University Regional Special Events Center. He asked Commissioner Russ to comment on the situation.

Commissioner Russ said a legal settlement with the architect for that project has been reached. Ms. Karen Powell, General Counsel for the Finance and Administration Cabinet, added that the terms of the settlement were \$500,000 in cash, and the architect agreed to forego any remaining fees due. She said the settlement adds up to close to \$1,000,000, but it does not include an ongoing lawsuit between the state and the contractor.

Mr. Hintze noted that the \$500,000 recovered in the settlement was credited to the Emergency Repair, Maintenance, and Replacement Account. Chairman Damron said that in late 1996, funds (\$1,787,414) from the emergency account were advanced to address structural problems discovered during construction of the arena. He noted that Finance Secretary McCarty committed to the Committee at the time that any money recovered from the architect or the contractor would be used to reimburse the emergency account.

Mr. Jim Abbott, Director, Division of Real Properties, discussed a lease modification report for the Department of Corrections (PR-1023) in Kenton County. The lessor is Kenton County Public Properties Corporation and the action taken is to acquire an additional 2,753 square feet of space at \$12.00 per square foot. Mr. Abbott reported that the Department needed additional space to accommodate 13 new staff members. The modification will increase annual leasing costs from \$83,856 to \$116,892. (Action is required for leases with annual costs in excess of \$100,000.)

Representative Marcotte made a motion to approve the lease modification for the Department of Corrections. The motion was seconded by Representative Haydon and passed by voice vote.

Mr. Abbott next discussed a lease report for the Department of Workers' Claims (PR-3460) in Franklin County. The lessor is Parkland Properties and the action taken is to amortize \$7,828 for interior painting and installation of additional HVAC.

Chairman Damron said lease modifications of less than \$50,000 do not require action from the Committee.

Mr. David Bratcher, Director, Grant Programs Division, Economic Development Cabinet, was present to report one new Economic Development Bond (EDB) project for North American Stainless (NAS). Grant funds in the amount of \$225,000 will be provided to Carroll County to purchase equipment already in use at the facility and lease the equipment back to the company for \$1 per year for a period of twenty years.

Representative Wayne asked why the grant is structured in a way to allow the county to purchase equipment from the company and then lease it back to the company. Mr. Bratcher said this is not uncommon, and 80% or more of the EDB projects presented to the Committee involve the purchase of equipment by local governments to be leased back to a company for \$1 per year. There is a formal lease agreement between the company and the county; the company is required to maintain the equipment and they are required to replace it as it becomes obsolete. He said this grant is unusual because the Cabinet has been working with NAS since 1995 on this project, and the company is just now applying for the economic development funds.

Representative Wayne asked what the terms and conditions were of the EDB grant. Mr. Bratcher explained that in 1995 NAS expanded its facilities at a total cost of \$263 million. As part of a state incentive package associated with the expansion, the state agreed to provide \$225,000 to NAS in the form of an EDB grant. In return, NAS was required to create and maintain (through December 31, 2000) 100 full-time jobs with an average wage of \$15.57 per hour.

Representative Wayne asked if the money the state has expended for this company will generate a profit to the state. He noted this is a lot of money to invest in Carroll County where the unemployment rate is lower than the state's average unemployment rate. Representative Wayne said the state has made two earlier EDB grants for a total of \$5 million. In addition, the state provided assistance to NAS for employee training, to build an access road, and to issue tax-exempt bonds on behalf of the company. Mr. Bratcher said the Cabinet does not perform a cost analysis on projects, but based on the level of investment and payroll taxes NAS has paid, it probably has been profitable for the state.

Representative Wayne said he is concerned about the state spending this amount of money without knowing the benefits to the state and to the local economy, including any

spin-off effects. He said the Cabinet may want to study this more closely, because it could justify the position the state is taking.

In response to a question from Representative Wayne, Mr. Bratcher said an appraisal of the equipment to be leased is required before an EDB grant is closed. If the company uses new equipment, the appraised value of the equipment is the same as the invoice price, and if the company utilizes used equipment, the state asks for an appraisal to establish its fair market value.

In response to a question from Senator Buford, Mr. Bratcher said as a condition of the grant, the state will pay NAS the grant upfront, and if NAS does not comply with the terms of the agreement, they will be required to reimburse the state. He added that the state enters into these transactions believing the company is being forthright and intends to create and maintain the jobs included in the agreement.

Chairman Damron asked why this EDB grant was not reported to the Committee in January of 1996 when the Cabinet reported EDB assistance of \$1 million to purchase a barge facility for NAS.

Mr. Bratcher said before they report an EDB grant to the Committee, there must be a formal request and an application from the company; and, in this case, the company did not submit an application until 1998, even though the assistance was offered in 1995.

Representative Marcotte asked if the Economic Development Cabinet believes NAS is a strong, viable company that will be in business for the long-term. Mr. Bratcher responded that the Cabinet feels comfortable with the company.

Representative Marcotte said Carroll County, a tobacco county, is placing a lot of hope in companies like NAS. He said NAS has a good reputation within the community and is an active participant in numerous community events.

Representative Marcotte made a motion to approve the EDB grant for North American Stainless. The motion was seconded by Senator Buford and passed by voice vote.

Chairman Damron called on Ms. Marilyn Eaton-Thomas, Kentucky Infrastructure Authority, to discuss three new KIA loan requests and two KIA loan reapprovals/amendments.

The first loan request Ms. Eaton-Thomas discussed was a Fund A1 (Federally Assisted Wastewater Revolving Loan Fund) loan in the amount of \$103,950 for the city of Wurtland in Greenup County. Proceeds from the loan will be used to upgrade the

existing water treatment plant. Ms. Eaton-Thomas said the terms of the loan are 3.8% for five years, and sewer user rates will not increase as a result of the loan.

Senator Buford made a motion to approve the KIA Fund A1 loan for the city of Wurtland, subject to conditions stipulated by KIA. The motion was seconded by Representative Haydon and passed by voice vote.

Next, Ms. Eaton-Thomas discussed a \$2,500,000 Fund B1 Grant (Water Resources Grant) for the Meade County Fiscal Court and a \$1,704,225 Fund C Loan (Governmental Agencies Program) for the Meade County Water District. These funds will be used to extend 30 miles of new water lines into unserved portions of Meade County. Ms. Eaton-Thomas said terms for the Fund C loan are 5.5% for 20 years, and user rates will not increase as a result of the loan.

Chairman Damron noted that the 1998 General Assembly specifically appropriated funds for the Fund B grant and no further action was required for the grant. However, action was required on the Fund C loan.

Senator Jackson made a motion to approve the Fund C loan for the Meade County Water District, subject to conditions stipulated by KIA. The motion was seconded by Representative Wayne and passed by voice vote.

The final loan request presented by Ms. Eaton-Thomas was a Fund C Loan request in the amount of \$102,432 for the Dexter Almo Heights Water District in Calloway County. The loan will be used to extend water lines and to refinance existing debt for the building which houses the district's office. Ms. Eaton-Thomas said the terms of the loan are 7% for 20 years, and there will be no increase in water usage rates.

Representative Haydon made a motion to approve the Fund C loan for the Dexter Almo Heights Water District, subject to conditions stipulated by KIA. The motion was seconded by Senator Jackson and approved by voice vote.

Ms. Eaton-Thomas then reported on KIA's reapproval of a Fund E (Solid Waste Revolving Loan Fund) loan in the amount of \$150,000 for the city of Hardinsburg in Breckinridge County. She said the city originally planned to use the loan to construct a new solid waste transfer station. However, because they could not locate a new site agreeable to the community, the city decided to improve and upgrade the existing transfer station. Ms. Eaton-Thomas said the terms of the loan, 2.7% for 15 years, will remain the same.

Chairman Damron said there is no change in the amount of the loan and no further Committee action is required.

The last project Ms. Eaton-Thomas discussed was a loan amendment for a Fund A (Federally Assisted Wastewater Revolving Loan Fund) loan for the city of Nicholasville in Jessamine County. The additional loan funds, \$760,695, will be used to eliminate the old wastewater treatment plant, rehabilitate the sewers in the Lake Mingo/Lake Street areas, and extend sewers to non-sewered residences within the city limits. The increase will bring the total amount of the loan to nearly \$16 million, the largest loan approved by KIA to date. Ms. Eaton-Thomas said the average user bill will rise to \$12.25/4,000 gallons by July of 1999, and the city has indicated it will raise rates 5% annually for five years. The terms of the loan are 2.9% for 20 years.

Senator Buford made a motion to approve the Fund A loan amendment for the city of Nicholasville, subject to conditions stipulated by KIA. The motion was seconded by Senator Jackson and passed by voice vote. The revised Fund A loan amount is \$15,740,449.

Chairman Damron asked if KIA will work collaboratively with the Rural Development (RD) Program to fund loan requests from water districts applying for the new federal drinking water program KIA will administer as Fund F. Ms. Eaton-Thomas said KIA has received federal approval for grant funds, and they are now accepting applications for Fund F funds. Loans will be made based on a priority project list that has been developed. She said although the criteria imposed by the federal government are different than the criteria used by RD, there are opportunities to use Fund F and RD funds together, but KIA is going to be tied very closely to the priority list. She added that some of the projects will be using RD funds and some will not.

Chairman Damron said water districts, regulated by the Public Service Commission (PSC), have less red tape to work through when projects have RD funds. He asked if water districts utilizing Fund F loans will also be exempted from certain PSC review. Ms. Eaton-Thomas responded that it is a legislative act which exempts projects with RD funding from an extensive review by PSC. She said KIA would welcome a similar exemption for projects with KIA funds. Chairman Damron commented that a lot of the rural water districts will not undertake small projects because the PSC review is so cumbersome. (This is not an issue for municipal utilities, who also are eligible for KIA funding, since they are not regulated by the PSC.)

Ms. Eaton-Thomas said there are arguments on both sides of this issue and stressed that KIA and PSC have different responsibilities. When KIA reviews a loan application, they focus on the applicant's ability to repay the loan; but it is the PSC which considers customer protection and makes sure rate increases are legitimate.

Chairman Damron said he thought this was an issue that should be further studied.

In response to questions from Chairman Damron, Ms. Eaton-Thomas said KIA is currently accepting applications for Fund F loans. They have notified the top-ranked projects that if they do not submit an application for loan assistance within the next six months, KIA will bypass them and consider applicants further down the priority list. She said they expect to have projects to present for the Committee's consideration by June or July of this year. The interest rate for Fund F loans will be 3.8% or 1.8%, depending on the community's financial condition. She said while interest rates for Fund F loans may be more favorable than RD rates, RD also has grant funds available. Also, KIA loans are limited to a term of 20 years, whereas RD allows 40-year terms.

Mr. Tom Howard, Office of Financial Management and Economic Analysis (OFMEA), presented a follow-up report for Kentucky Economic Development Finance Authority (KEDFA) Refunding Bonds, Series 1998 Select Auction Variable Rate Securities for the Retirement Housing Foundation Obligated Group Colonial Heights Project. Mr. Howard said this issuance provided advance refunding of the 1997 Series A City of Florence Housing Facilities Revenue Bonds. The gross proceeds were \$10,050,000; the bonds sold December 7, 1998; the final maturity date is December 1, 2028; and the true interest cost was 5.26%. Mr. Howard said the bond issue was a negotiated sale with Greenberg Traurig as bond counsel; Latham & Watkins as borrower's counsel; Marnie Rice as financial advisor; and Bank of New York Western Trust as trustee.

Chairman Damron said this item was approved at a previous Committee meeting and did not require action.

Chairman Damron then asked Senator Leeper to take over duties of the Chair for the next two agenda items. Senator Leeper called on Mr. Howard to present four new School Facilities Construction Commission (SFCC) bond issues, none of which required a tax increase: Knox Co. - \$1,120,000 for construction of a high school athletic facility; Lincoln Co. - \$7,500,000 for improvements and additions to six elementary schools and one high school; Monticello Ind. (Wayne Co.) - \$575,000 to refund 1989 bonds; and Pendleton Co. - \$2,375,000 for improvements to a middle school.

Senator Buford made a motion to approve the school bond issues with SFCC participation in debt service. The motion was seconded and passed by voice vote. Chairman Damron abstained from the vote, citing a possible conflict of interest.

Senator Leeper said there were two 100% locally-funded school bond issues: Harlan Co. - \$1,450,000 for renovations at various sites throughout the district; and Pike Co. - \$2,580,000 to refund 1992 bonds.

Senator Leeper said no action was required on school bond issues that are 100% locally-funded.

Chairman Damron said enclosed in members' folders were the updated weekly and monthly debt issuance calendar; a Committee newsletter; an information item regarding contracts/memoranda of agreements approved at the January 12 meeting of the Government Contract Review Committee meeting; and a January 13, 1999, *Courier Journal* newspaper article about the Murray State University Regional Special Events Center.

Chairman Damron said it has been his privilege and honor to serve as Committee chairman for the past four years. However, House rules require him to step down as chair of the Committee since he has accepted a position on the Appropriations and Revenue Committee. He asked Ms. Mary Lynn Collins, Committee Staff Administrator, to chair the election process for a new chairman.

Ms. Collins opened the floor for nominations for Committee chairman. Chairman Damron nominated Representative Jodie Haydon to serve as Committee chairman for the term to end June 30, 2000. The nomination was seconded by Representative Marcotte.

Chairman Damron made a motion that the nominations be closed and that Representative Haydon be elected as Committee chairman by acclamation. The motion was seconded by Representative Wayne and passed by voice vote. Ms. Collins turned the meeting over to the newly elected chairman.

Chairman Haydon thanked Representative Damron for serving as Committee chairman for the past four years; he said he looked forward to working with the Committee and staff.

Senator Leeper commended Representative Damron for his work as Committee chairman. He said the members take their roles very seriously and the Committee and the Commonwealth have been well-served by Representative Damron.

The next meeting is scheduled for February 16, 1999, at 1:00 p.m. in Room 129 of the Capitol Annex.

With there being no further business, Representative Damron made a motion to adjourn the meeting. The motion was seconded and passed by voice vote. The meeting adjourned at 2:05 p.m.